

UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

NYESHA RUSSELL,

Plaintiff

v.

GRIMLEY FINANCIAL CORPORATION,

Defendant

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Case No.:

COMPLAINT AND DEMAND FOR
JURY TRIAL

(Unlawful Debt Collection Practices)

COMPLAINT

NYESHA RUSSELL ("Plaintiff"), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against GRIMLEY FINANCIAL CORPORATION ("Defendant"):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA").

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy," and 28 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

3. Defendant conducts business in the Commonwealth of Pennsylvania; therefore, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

5. Plaintiff is a natural person residing in Philadelphia, Pennsylvania 19143, at the time of the alleged harassment.

6. Plaintiff is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).

7. Defendant is a national debt collection company with its corporate headquarters located at 30 Washington Avenue, Suite C-6, Haddonfield, New Jersey 08033.

8. Defendant collects, and attempts to collect, consumer debts incurred, or alleged to have been incurred, for personal, family or household purposes on behalf of creditors and debt buyers using the U.S. Mail, telephone and/or internet.

9. Defendant is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6), and sought to collect a debt from Plaintiff.

10. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

11. At all relevant times, Defendant was attempting to collect an alleged consumer debt from Plaintiff.

12. The alleged debt at issue, a medical bill from Einstein Hospital, arose out of transactions that were primarily for personal, family, or household purposes.

13. Beginning in or before July 2013, and continuing through September 2013, Defendant repeatedly contacted Plaintiff on her cellular telephone seeking and demanding payment of a debt.

14. Many of Defendant's collection calls originated from: (877) 904-1414, which the undersigned has confirmed is a telephone number belonging to Defendant.

1 15. Plaintiff knew it was Defendant calling because she answered the phone and
2 spoke with Defendant's debt collectors on numerous occasions.

3 16. In addition, Defendant's telephone number appeared on Plaintiff's caller id.

4 17. Defendant contacted Plaintiff, on average, one (1) to two (2) times a day.

5 18. On one day, Defendant called Plaintiff at 9:25 a.m., 9:37 a.m., 9:38 a.m., and
6 11:23 a.m.

7 19. On multiple occasions, Plaintiff informed Defendant to stop calling her.

8 20. Defendant, however, ignored Plaintiff's instructions and continued to call her on
9 her cellular telephone in its attempts to collect a debt.

10 21. Also, on numerous occasions, Plaintiff called Defendant and left a message telling
11 them to stop calling her.

12 22. Again, Defendant would not update its records to stop the calls to Plaintiff; rather,
13 it persisted in calling Plaintiff in its attempts to collect a debt, having the intent to annoy, abuse
14 and harass her.

15 23. Upon information and belief, Defendant contacted Plaintiff on a continuous and
16 repetitive basis with the intent of harassing Plaintiff into paying this debt.

17
18 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT**
19 **COUNT I**

20 24. Defendant's conduct, detailed in the preceding paragraphs, violated 15 U.S.C. §§
21 1692d and 1692d(5).

22 a. A debt collector violates § 1692d of the FDCPA by engaging in conduct
23 the natural consequence of which is to harass, oppress, or abuse any person
24 in connection with the collection of a debt.

25 b. Section 1692d(5) of the FDCPA prohibits debt collectors from causing a

1 telephone to ring or engaging any person in telephone conversation
2 repeatedly or continuously with the intent to annoy, abuse, or harass any
3 person at the called number.

- 4 c. Here, Defendant violated §§ 1692d and 1692d(5) of the FDCPA when it
5 called Plaintiff, on average, one (1) to two (2) times a day, and at times
6 calling as frequently as four (4) times a day, with the intent to annoy, abuse
7 and harass Plaintiff, as well as continuing to call Plaintiff after having been
8 told to stop calling.
9

10 **COUNT II**

11 25. Defendant's conduct, detailed in the preceding paragraphs, violated 15 U.S.C. §
12 1692f.

- 13 a. A debt collector violates § 1692f of the FDCPA by using unfair or
14 unconscionable means to collect or attempt to collect any debt.
15 b. Here, Defendant violated § 1692f of the FDCPA engaging in other unfair
16 and unconscionable debt collection practices, including failing to update its
17 records to stop the automated and/or dialed calls to Plaintiff's cellular
18 telephone.
19

20 WHEREFORE, Plaintiff, NYESHA RUSSELL, respectfully prays for a judgment as
21 follows:

- 22 a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
23 b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant
24 to 15 U.S.C. § 1692k(a)(2)(A);
25

- 1 c. All reasonable attorneys' fees, witness fees, court costs and other litigation
2 costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and
3 d. Any other relief deemed appropriate by this Honorable Court.
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5 **DEMAND FOR JURY TRIAL**

6 PLEASE TAKE NOTICE that Plaintiff, NYESHA RUSSELL, demands a jury trial in
7 this case.
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10 DATED: July 23, 2014

RESPECTFULLY SUBMITTED,

KIMMEL & SILVERMAN, P.C.

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12 By: 
13 CRAIG THOR KIMMEL
14 Attorney ID #67100
15 Kimmel & Silverman, P.C.
16 30 E. Butler Pike
17 Ambler, PA 19002
18 Phone: (215) 540-8888
19 Fax: (877) 788-2864
20 Email: kimmel@creditlaw.com
21
22
23
24
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